

## To Report or Not To Report . . . Is that the Question?

by Marge Scanlin with support from Bob Ditter, licensed child therapist, and Martha Coakley, Assistant DA of Middlesex County, Massachusetts

*Perhaps the counselor used poor judgment. He shoved a boy up against a wall. The boy had no physical injuries, though he was embarrassed and hurt emotionally.*

*He was a return staff member. It had been one of those days. He "lost it" and slapped a boy who had pushed him to the edge. The boy's face was red, but the skin was not broken.*

*A child exposes himself to another child and then touches her against her will. He is 12 years old.*

*She was a creative staff member. Today her patience had been tried. You later found out she had withheld dessert from a camper and had made her sit outside under a light for 20 minutes that night. The girl complained of an allergic reaction to the mosquito bites she got sitting out there.*

Are these "reportable" incidents under the definition of your state law? Or are they just poor judgement on the part of staff under stress? Each summer ACA receives numerous calls asking these same type of questions. After several such questions last summer, we consulted with professionals in the field to gather input.

There are several factors to consider when deciding what to report and when.

### 1. Know the reporting law in your state.

While rules vary from state to state, camp directors and camp nurses and doctors are mandated reporters in virtually all states. Many states' rules say that **anyone** with the suspicion that a child is being or has been abused is required to report.

It is your obligation as a director to know to whom that report should be made (generally a Department of Human or Social Services or a Child Protection Division), within what time frame it is to be made, what behaviors are reportable, and where that report should be made.

### 2. Train your staff!

Be sure they know what the law is with regard to their own behaviors with children and with regard to the reporting laws in your state and procedures in your camp.

### 3. Establish a relationship with child protection authorities.

Get to know them and have them get to know you BEFORE you have an incident. Obtain staff training resources from them. Invite them to speak to your staff. Find out what counseling or support services they

recommend or can make available to you in times of need.

### Why report incidents? Isn't it better to work them out yourself?

For starters, it is in the best interest of children to report incidents so that the child can get help and so the allegation can be cleared or the perpetrator can be helped. Hiding situations "under the carpet" helps no one in the long run.

Secondly, it's the law! Reporting gives you immunity from civil law suits (allegations that you were negligent for reporting information), and you can be charged under criminal law for failure to report. In a recent summer, several camp directors were arrested for failing to report incidents to child protection authorities. The reason for such strict laws is to provide protection and support to our children. In most states you become a mandated reporter simply by providing services to children for a fee.

### What is reportable?

Reportable offenses generally include physical abuse, sexual abuse, or serious emotional abuse. While situations such as those at the top of this article may fall into a gray area in your mind as to what is reportable, the defining criterion is the effect of the incident on the "victim". Emotional abuse may include abusive language, exposure, or sexual harassment.

Criminal prosecution is in effect for the following gender-neutral offenses: indecent assault (touching the private parts of another), or sexual penetration (oral, vaginal or anal).

When the abuse is by a care-giver (e.g. camp staff member, parent, older sibling, babysitter), a report generally goes first to Social Services. When the abuser is a child, Social Services can help you figure out what to do. If a child "perpetrator" won't go through their screens for further investigation, they can advise if criminal charges should be filed with the police.

Keep in mind that "sexual harassment" is a term that is applicable beyond the workplace. It is an offense that is reportable to Child Protective Services.

Camps are well-advised to have a behavior code that identifies the types of infractions that would cause one to be subject to dismissal from camp, regardless of whether they are a camper or staff member. Such infractions may include physical, sexual or emotional abuse, or endan-

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## The Camp Director's Role as a Mandated Reporter

Your primary role as a mandated reporter is to gather the essential information related to your suspicion that abuse or neglect has occurred and to report it to DSS. Beyond that — a more complex issue, of course — your concern should be the child's emotional and/or physical well-being and sense of personal safety.

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Whether a child actually discloses abuse to you or you have suspicions based on other factors, it may be appropriate for you to speak with the child. Keep in mind, however, that how you frame your questions is a delicate matter. If the case is prosecuted at a later time, it is critical the child was not at any time asked leading questions, meaning non-openended questions that seem to provide the child with answers. Here is a guideline on how to proceed:

- When you speak with the child, try to find a quiet setting where you won't be interrupted.
  - Don't allow the child to swear you to secrecy before speaking with you. You may need to report.
  - Ask questions that don't imply answers. Examples of this kind of question are: "Tell me what happened" or "Can you tell me who did it?"
  - Remember, less is more. You do not need to question the child extensively for details. Just try to get the basic information. Other professionals will question the child at a later date if the case is pursued.
  - The child need not name his or her abuser for a report to be filed. It is important that you not press the child to identify the abuser by asking direct questions, such as "Was it (your father, your uncle, etc.)?"
  - Respond calmly and matter-of-factly. Let the child know that you believe what he or she is saying, and that the child has done the right thing in talking to you. Even if what the child tells you is difficult to hear, it is important not to register anger, disgust, or alarm.
  - Don't be judgmental of the abuser. It is often someone the child loves.
- Don't confront the abuser. This may cause more harm to the child.
  - Ask the child if he or she feels safe going home. If he or she does not, this should be considered an emergency and reported immediately.
  - Don't make promises to the child that things will get better. In reality, things may get worse before they get better, but conveying this to the child may make him or her more anxious.
  - Respect the child's confidence and limit the number of people with whom you share the information. The child needs to understand that confidentiality will have to be extended to one or more professionals. An example of how you might word this is: "You're telling me a lot of very important things. There are other people who need to hear these things, too, and I will be contacting them."
  - If you find that you must file a report, it is important that you tell the child what you will be doing and give him or her some sense of what will happen next. Be as specific as possible about whom you will be contacting, and when the child can expect to hear from them. You probably will not have this information until you have spoken with DSS, and YOU may need to schedule another discussion with the child to let him or her know what will be happening. Your extra effort in this regard will offer the child some sense of control in what he or she likely perceives as an overwhelming situation.
  - Concentrate on your role with the child. Professionals in a counseling relationship with the child, for instance, might focus on questions pertaining to the child's well-being. A teacher might focus on the student's sense of safety and routine in the classroom. A camp director may focus on the safety of the child in returning home.
  - Finally, it is important to your on-going relationship with the child that you make no promises to the child regarding what will happen to the offender. Comments such as "I will make sure that (the abuser) never hurts you again" may prove impossible to uphold in the long run. It is important to convey your professional concern and, if appropriate, to let the child know that he or she can turn to you for support throughout a difficult time in his or her life.

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gering the well-being of others.

In some incidents reported to ACA this summer, directors were unclear as to whether the situation was an example of sex play and curiosity or whether it could be classified as abuse. This is a difficult line to draw. It is suggested that directors do enough investigation to understand whether this is comparison and looking, or whether intimidation or penetration are involved. Either of these latter examples requires a report, as does criminal behavior such as sex between or with a minor. In most instances, the camp is better off turning in a report to allow an investigation by authorities since you are open to suit if you fail to take action and you are immune from suit if you report in good faith.

#### ***To Whom should the report be made?***

Except when clear criminal behavior is involved, the report should go to Child Protective Services (sometimes called Social Services or Department of Human Services). This organization will call the police if they believe criminal behavior is involved.

#### ***When should you involve the parents? What if they don't want you to report?***

Your duty under the law is a duty to report. Your own criminal liability is an issue here. This obligation is outside of what the parent wants you to do. It is OK to call the parent and say "As a courtesy I'm letting you know that I am reporting this. It is a requirement under the law that I do so."

Recognize that the law requires you to report "if you have reason to believe an incident has occurred." This is a much more lenient requirement than "beyond reasonable doubt" or "by a preponderance of the evidence." If you want to be an advocate for what is best for children (as opposed to what is most comfortable for you) you will report. Physical, sexual, and emotional abuse have long term effects on children.

#### ***What if a camper reveals a situation to a counselor that occurred at another time or place?***

The law, as written, still obligates you to report that incident. You would need to know where this is alleged to have occurred. With that information, you could report it to your local agency or to the agency in the location where the incident occurred. If calling with this type of incident, you may want to ask to speak with a supervisor since the situation is complicated by time or distance. The supervisor will be able to advise you of appropriate procedures.

#### ***What if a camper who has been convicted of sexual abuse applies to come to camp? Is it OK to deny admission?***

This may seem like an unusual situation, but twice in the last two summers we have become aware of this situation. It is probably a factor more often than we know. All fifty states now have a registry of convicted child abusers from their own jurisdictions. It is not known if camp directors can access that information in all states, but that registry would include information on minors.

If you suspect a child has a conviction record and the parent will not confirm that fact, you could contact the police in the child's home town and ask for the information. It seems you have a good case for denying admission to such an individual. With reporting laws in some states, you might be obligated to tell all the parents of children in that cabin that there was a convicted child abuser in their midst. It would appear that the rights of the other children outweigh the rights of the convicted camper or staff member. This is an unclear area of the law.

#### ***Might the convicted child be rehabilitated?***

This is an extremely difficult situation. The parent of the convicted child may give you permission to talk with the therapist, or might permit you to ask the therapist for a letter indicating they believe the child is not a risk to other children. We suggest you consult with legal counsel in such situations.

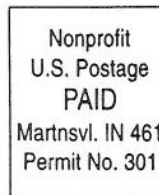
#### ***Sometimes counselors just use poor judgment. Do I really have to report them?***

Several of the examples at the top of this article demonstrate counselors on the edge. When we use young college-aged staff, we know they do not always have the most mature judgment. However, officials advise that anytime there has been an assault (such as a punch, hit, or even a hard slap) that leaves marks, you should report the incident. In other circumstances, consider factors such as:

- Is this repeat behavior on the part of the staff member?
- What else might this individual do under stress?
- Would you report this behavior if it were a first year staffer? (Then report it now!)

If the incident involves an international staff member (and at least one situation reported to ACA every summer does), you may be well

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advised to report it to the police if the Social Services office is closed for the day or the weekend. Immediate investigation will be necessary in such instances due to the availability of the individuals involved.

**In Summary**

Camps are in a unique position to have a positive influence on the lives of children. If we really believe that "camp gives kids a world of good," we must be willing to be proactive for the best interests of those who have been entrusted to us. We suggest that before the next season you establish (or strengthen) contacts with child protection agencies in your community. Discover who can provide counseling support to campers or staff if needed. Find out who can assist with staff training around issues of child protection. Be proactive.

All those who have been victims of abuse would tell you "It matters" when it comes to the actions you take to deal with these issues. Abuse can happen in good camps . . . not because of your failure, but in spite of all your efforts. All the well-designed endeavors of your staff screen-

ing and training can help to reduce your risk, but they cannot give you a guarantee. Abuse is a societal problem — not one unique to camps. Plan now as if the worst might happen so that you can provide the best possible support and action if it does.



**Minimum Wage** continued from page 11

tain activities hazardous, and generally prohibit employees under the age of 18 from using certain equipment including deep fryers, slicers, and dough mixers, as well as power tools, ammunition, and certain construction equipment. Operation of a motor vehicle of less than 6,000 pounds is permitted by licensed employee-operators aged 16-18, in daylight only, if the person has successfully completed a driver training course and uses a seat belt.

Information provided by Rick Parker, Labor Attorney with Ice, Miller, Donadio and Ryan; and David Gray, ACA Legislative Affairs Liaison.